

UNIVERSITY OF THE TREES

IBLA 79-141

Decided March 16, 1979

Appeal from decision of California State Office, Bureau of Land Management, rejecting noncompetitive oil and gas offer to lease parcel CA 117.

Affirmed.

1. Regulations: Generally

Persons dealing with the Government are presumed to have knowledge of pertinent rules and regulations, regardless of their actual knowledge of what is contained in such regulations.

2. Oil and Gas Leases: Applications: Filing

The instructions printed on the simultaneous drawing entry card plainly advise that "[c]ompliance must also be made with the provisions of 43 CFR 3102." It is solely the responsibility of the offeror to ascertain what is contained in the regulations in order to comply therewith.

3. Oil and Gas Leases: Applications: Filing

Not all persons may be qualified to be lessees, and for that reason all offerors must furnish evidence of their qualifications to hold oil and gas leases. In the case of corporations, such evidence must accompany the offer unless previously submitted, in which case reference to the serial number of the record suffices.

4. Oil and Gas Leases: Drawings—Oil and Gas Leases: First Qualified Applicant

The first-drawn entry card of a corporation which has failed to comply with the regulations governing qualifications must be rejected.

5. Oil and Gas Leases: Applications: Filing—Oil and Gas Leases: First Qualified Applicant

Appellant's request that it be permitted to furnish the evidence of qualifications on appeal is denied. In simultaneous oil and gas leasing, the only difference between the drawing entry cards is the order in which they are drawn. The applications are considered to have been simultaneously made. Giving an unqualified first-drawn entrant additional time to file infringes on the rights of the second-drawn qualified offeror.

APPEARANCES: Christopher Hills, President, University of the Trees, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

University of the Trees, a corporation organized under the laws of the State of California, appeals the decision of the California State Office, Bureau of Land Management (BLM), rejecting its noncompetitive oil and gas lease offer to lease parcel CA 117.

Appellant submitted its offer on a drawing entry card (DEC) in November 1978, pursuant to the simultaneous filing procedure for noncompetitive oil and gas leasing, 43 CFR 3112.2-1. Appellant's entry card was the first drawn.

By decision dated December 27, 1978, the offer was rejected on the ground that appellant had failed to accompany its DEC with the statement of qualifications required of corporate offerors at 43 CFR 3102.4-1, infra.

In the statement of reasons for appeal, appellant admits that its failure to provide the statement was an "oversight." Appellant also states that:

[T]he offering card says distinctly that the applicant must certify that it is a bona fide corporation under item (1) * * * and does not specify that proof is to accompany the offer itself. * * * [I]t is not reasonable in law to expect a citizen to provide information he is not requested to give in the general literature provided by the Bureau * * * [N]o one can expect every citizen or corporation * * * to know that prior registration of corporation qualifications are [sic] mandatory unless specific attention is drawn to this fact.

Appellant has since submitted evidence of its qualifications, and asks that it be permitted to file them at this time and that we reverse the decision rejecting its offer.

[1] Appellant's first contention affords it no rights. Persons dealing with the Government are presumed to have knowledge of pertinent rules and regulations, regardless of the absence of actual knowledge of what is contained in such regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380, at 384-85 (1970).

[2] Appellant's other assertions suggest that the instructions printed on the simultaneous DEC are inadequate or unclear. We reject this argument. The printed instructions plainly advise that "[c]ompliance must also be made with the provisions of 43 CFR 3102." (Latter emphasis supplied.) It is solely the responsibility of the offeror to ascertain what is contained in the regulations and to comply therewith.

[3] Not all persons may be qualified to be lessees, and for that reason all offerors must furnish evidence of their qualifications to hold oil and gas leases. In the case of corporations, such evidence must accompany the offer unless previously submitted, in which case reference to the serial number of the record suffices. 43 CFR 3102.4-1. That regulation unambiguously provides:

If the offeror is a corporation, the offer must be accompanied by a statement showing (a) the State in which it is incorporated, (b) that it is authorized to hold oil and gas leases and that the officer executing the lease is authorized to act on behalf of the corporation in such matters, (c) the percentage of voting stock and of all the stock owned by aliens or those having addresses outside of the United States, and (d) the names and addresses of the stockholders holding more than 10 percent of the stock of

the corporation. Where the stock owned by aliens is over 10 percent, additional information may be required by the Bureau before the lease is issued or production is obtained. A separate statement from each stockholder owning or controlling more than 10 percent of the stock of the corporation setting forth his citizenship and holdings must also be furnished. Where such material has previously been filed a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted. [Emphasis supplied.]

A prior filing of corporate qualifications is not mandatory, as appellant contends. It is a device of convenience only. A corporate offeror which has previously filed evidence of its qualifications may spare itself the time, expense, and burden of repeating the procedure with each subsequent noncompetitive offer by referring to the serial record where the material is filed.

[4] A first-drawn entry card of a corporation which has failed to comply with the regulations governing qualifications must be rejected. Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), affirmed per curiam, 544 F.2d 1067 (10th Cir. 1976); Norcross Partners, 31 IBLA 181 (1977); Dal Metro Investment Co., 29 IBLA 198 (1977); Silver Monument Minerals, Inc., 14 IBLA 137 (1974); Read & Stevens, Inc., 9 IBLA 67 (1973).

The certification of qualifications printed on the DEC is distinct from, although related to, the statement of qualifications required by the regulations. It is true the certification recites the regulations at 43 CFR 3102 in material part, but not, as appellant seems to suggest, for the purpose of providing an alternate or elective method of compliance therewith. Execution of the DEC does not obviate compliance with pertinent regulations.

[5] We deny appellant's request that it be permitted to furnish the evidence of qualifications at this time. As the court in Ballard E. Spencer Trust Inc., *supra*, stated:

In noncompetitive bidding, * * * the only difference between the entries is the order in which they are drawn. The applications are considered to have been simultaneously made. Giving an unqualified first-drawn entrant additional time to file * * * infringe[s] on the rights of the second-drawn qualified offer[or]. This distinction * * * is a valid one * * *. 544 F.2d 1067, at 1070.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur.

Joan B. Thompson
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

